

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

OBAR LEVELL ELLIS,

Petitioner,

Case No. 1:15-CV-212

v.

HON. ROBERT HOLMES BELL

WILLIE SMITH,

Respondent.

**ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION**

On April 3, 2015, Magistrate Judge Phillip J. Green issued a Report and Recommendation (“R&R”) recommending that Petitioner Omar Levell Ellis’s motion for a stay be denied and that his § 2254 petition for writ of habeas corpus be dismissed because it is barred by the one-year statute of limitations. (ECF No. 6.) Petitioner has filed objections to the R&R. (ECF No. 7.)

This Court is required to make a de novo review upon the record of those portions of the R&R to which specific objections have been made. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *see also Miller v. Currie*, 50 F.3d 373, 380 (6th Cir. 1995) (“[A] general objection to a magistrate’s report, which fails to specify the issues of contention, does not satisfy the requirement that an objection be filed. The objections must be clear enough to enable the district court to discern those issues that are dispositive and contentious.”). Although the Magistrate Judge’s R&R is reviewed de novo, this Court must review the state court proceedings consistent

with the standards set forth in 28 U.S.C. § 2254.

Petitioner objects to the Magistrate Judge's conclusion that he is not entitled to equitable tolling. Petitioner does not suggest that the Magistrate Judge misunderstood the facts or that he applied the wrong legal standard. He merely challenges the Magistrate Judge's judgment that Petitioner's explanation for the untimely filing does not rise to the level of an extraordinary circumstance, and does not demonstrate the requisite level of diligence for equitable tolling. On de novo review, this Court agrees with the Magistrate Judge's thorough and well-reasoned R&R. Accordingly,

IT IS HEREBY ORDERED that Petitioner's objections to the Report and Recommendation of the Magistrate Judge (ECF No. 7) are **OVERRULED**.

IT IS FURTHER ORDERED that the April 3, 2015, R&R (ECF No. 6) is **APPROVED** and **ADOPTED** as the opinion of the Court.

IT IS FURTHER ORDERED that Petitioner's motion for a stay (ECF No. 3) is **DENIED**.

IT IS FURTHER ORDERED that Petitioner's petition for writ of habeas corpus (ECF No. 1) is **DISMISSED**.

IT IS FURTHER ORDERED that a certificate of appealability is **GRANTED**. 28 U.S.C. § 2253(c); *Slack v. McDaniel*, 529 U.S. 473 (2000).

Dated: September 28, 2015

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE